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Republic of Yemen

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I. LAND AND PEOPLE

A. Location and area

1. The Republic of Yemen is situated in the southern part of the Arabian Peninsula between latitudes 12° and 19° N and longitudes 43° and 52° E and covers an area of 555,000 km^2 (not including the Empty Quarter desert). It is bordered by the Kingdom of Saudi Arabia to the north, the Arabian Sea and the Gulf of Aden to the south, the Sultanate of Oman to the east and the Red Sea to the west. The Bab al-Mandab straits, in the south-western part of Yemen, are divided into two by the Yemeni island of Miyun (Perim), which controls the approaches thereto.

2. The island of Suqutra in the Arabian Sea, which is the largest of the Yemeni islands, is situated at a distance of 510 km from the southern coast of Yemen and covers an area of 3,650 km^2. There are also a number of small islands, such as Abd al-Kuri, in the Arabian Sea and more than 112 Yemeni islands in the Red Sea, the largest of which are the islands of Kamaran, Hanish al-Kubra, Hanish al-Sughra, Zuqur, al-Zubair, Farasan and al-Tair. The Yemeni coastline extends for more than 2,200 km from the Red Sea in the west to the Arabian Sea and the Indian Ocean in the south.

3. Although the vast majority of Yemenis are Arabs, a few of them are of African or Indian ethnic origin. Trade contributed to this extremely slight ethnic diversity.

B. Religion

4. Islam is the religion of the State (article 2 of the Constitution). More than 99.7 per cent of Yemenis are Muslims, divided into two main confessional groups, the larger of which adheres to the Shafi'i school of law (one of the four Sunnite schools) while the smaller group, living in some of the northern areas, adheres to the Zeidi school of law (one of the Shi'ite schools). There is also a population group adhering to the Isma'ili school of law (a school with historical roots in Yemen which has many followers among the Muslims of India where they are known as the Bohra community).

5. Yemen also has a Jewish minority, totalling not more than 5,000 persons, who live in towns and villages in the governorates of Amran and Sa'dah. This minority, which is of Yemeni origin, was more numerous before a large number of its members emigrated to Palestine.

6. All of the Christians in Yemen are foreigners residing there for reasons attributable to their professional activity. They enjoy freedom to engage in their religious observances either at their places of work or at locations designated for that purpose.

C. Language

7. Arabic is the official language of the Republic of Yemen (article 2 of the Constitution). It is also the language of communication, education and information. The Mahra and Suqutri languages are spoken by minorities living in the governorate of Mahra in the easternmost part of

Yemen and on the island of Suqutra in the Indian Ocean. The Government is making a considerable endeavour to study these languages, identify their characteristics and preserve them. In recent years, English has been taught more widely, particularly in private education.

D. Population

8. Yemen is the most densely populated country in the Arabian Peninsula. This is largely due to natural circumstances such as its fertile soil, its rainfall and Yemeni ingenuity in building dams and dykes, as well as terraces on the mountain slopes, which led to an expansion of the area of arable land. Over the centuries, Yemen has constituted a human reservoir for most of the peoples historically known as Arabs. Whenever environmental, political or economic circumstances changed, there were migratory flows from Yemen in various directions, particularly northwards.

9. Population censuses in the former Yemen Arab Republic (northern Yemen) show that the total population increased from 6.5 million persons in 1975 to 9.3 million in 1986 and about 10.6 million in 1998, i.e. a total increase of 3.7 million persons. In the former People's Democratic Republic of Yemen (southern Yemen), the population increased from 1.6 million persons in 1973 to 2.34 million in 1988.

10. According to the population projections for 1998, the resident population of the Republic of Yemen amounted to about 17,071,000 persons distributed among the 19 governorates, in addition to the capital, and comprising 8,527,000 males (about 49.95 per cent) and 8,545,000 females (about 50.05 per cent). These projections were based on the 1994 census.

11. The overall population density in the Republic amounts to about 31 persons per km^2 but varies from one governorate to another depending on the topography.

12. The annual rate of natural population growth, amounting to 3.7 per cent, is a high rate by international standards.

E. Fertility

13. In 1997, the overall fertility rate amounted to 7.0 per cent in rural areas and 5.0 per cent in urban areas (i.e. a mean average of 6.5 per cent).

14. Total fertility per thousand amounted to 221.0 in rural areas and 167.0 in urban areas (a mean average of 206.0).

Rates for 1997	Rural	Urban	Mean
Overall fertility rate	7.0	5.0	6.5
Total fertility (per thousand)	221.0	167.0	206.0
Crude birth rate (per thousand)	40.6	35.2	39.2

15. Life expectancy at birth in 1998

Gender	Rural	Urban	Mean
Males	56.6	58.5	57.5
Females	59.6	62.6	61.0
Overall	58.1	60.5	59.2

16. Proportion of the population under 15 years of age in 1998

Gender	Rural	Urban	Mean
Males	50.7	39.2	47.9
Females	46.7	42.8	45.9
Overall	48.7	40.8	46.9
Urban/rural distribution of the population (%)	74.44	25.56	100

17. Average age of the population in 1997

Gender	Rural	Urban	Mean
Males	14.4	16.7	15.0
Females	15.3	17.0	15.7
Overall	14.9	16.8	15.4

18. Infant mortality rate (per thousand)

Gender	Rural	Urban	Mean
Males	90.4	67.0	85.2
Females	66.1	59.4	64.4
Overall	78.8	63.4	75.3

19. Mortality rate (per thousand) among children under five years of age in 1997

Gender	Rural	Urban	Mean
Males	120.3	82.8	112.0
Females	102.9	77.0	97.1
Overall	112.0	80.0	104.8

20. Overall mortality rate (per thousand) in 1997

Gender	Rural	Urban	Mean
Males	12.9	10.3	12.2
Females	11.0	8.9	10.9
Overall	11.9	9.7	11.3

21. Proportion of households headed by women

	Rural	Urban	Mean
Proportion of households headed by women	10.0	9.0	10.0

22. Illiteracy rate (percentage) in 1998

Gender	Rural	Urban	Mean
Males	34.99	20.55	31.25
Females	73.29	38.77	64.15
Overall	53.52	29.80	47.31

F. Education

23. The Yemenis suffered from ignorance, intellectual stultification and isolation for many centuries until the outbreak of the revolution in the former Yemen Arab Republic (northern Yemen) on 26 September 1962 and in the former People's Democratic Republic of Yemen (southern Yemen) on 14 October 1963 when endeavours were made to combat ignorance and illiteracy. The aim of education is to train upright citizens eager to assert their rights of citizenship and capable of assuming the responsibilities resulting therefrom; to enable individuals to understand the natural, social and cultural environment of their society in particular and of Arab and human society in general; to develop their basic skills so that they can transmit ideas and pursue scientific modes of thought and research; to promote their sound development; and to improve their health and their social and economic standards. The philosophy of education focuses on achievement of the following objectives:

(a) Promotion of universal basic education, according priority to deprived areas and categories;

(b) Development of general education in such a way as to meet the needs of individuals and society in all fields;

(c) Expansion of the scope of basic education services to include the provision of health services and academic requisites;

(d) Development of scientific tendencies, originality, objectivity and a critical spirit among children in order to endow them with skills and abilities consistent with the level of their intellectual and physical development and linked to their immediate environment.

24. In view of the importance of education in everyday life and for the country's future, article 54 of the Constitution stipulates that: "All citizens have a right to education which the State shall safeguard, in accordance with the law, by establishing various schools and cultural and educational institutions. Primary education shall be compulsory and the State shall endeavour to eradicate illiteracy and e. nand technical and vocational education. The State shall also cater, in particular, for the welfare of the younger generation by protecting it from delinquency, providing it with a sound religious, intellectual and physical upbringing and creating appropriate conditions for the development of its aptitudes in all fields".

25. The State is endeavouring to provide everyone with equal educational opportunities, consistent with the wishes of individuals and the needs of society, in accordance with comprehensive socio-economic plans. By law, primary education is free and compulsory. More schools are being constructed for primary education and students are permitted to enrol at public schools from the ages of 5 to 10 so that a larger number of them can receive an education, particularly in remote areas.

26. Following Yemen's reunification, the duration of compulsory primary education was increased from 6 to 9 years and the kindergarten stage has been included in the education system in order to teach children in the early years of their lives. The Government has also encouraged the private sector to invest in pre-school, primary, secondary and university education.

27. The educational statistics show that, during the 1990s, the number of students enrolled for primary education increased notably from about 2 million to 2.9 million, i.e. an increase of 45 per cent. The enrolment rate in the first primary grade rose to 100 per cent and the drop-out rate decreased to 1.2 per cent. This was also the case at the secondary level, in which the number of students rose from 134,000 in the academic year 1990/91 to 376,000 in the year 1999/2000, i.e. an increase of about 180 per cent.

28. The educational statistics also show notable growth in the number of females enrolled for primary education, which increased from 516,000 in the academic year 1990/91 to about 980,000 in the year 1999/2000, i.e. an annual growth of about 19 per cent. Large increases were also noted in the number of female students enrolled at the secondary level, which increased from just over 20,000 in the year 1990/91 to more than 94,000 in the year 1999/2000. The achievements made in the field of female education are illustrated by the fact that the number of females working in the teaching profession increased from about 9,869 to 29,610 during the same period, although this figure represented only 20 per cent of the total number of teachers in the academic year 1999/2000.

29. Informal education programmes, covering the first primary grade to the general secondary (pre-university) level, have been organized for persons whose circumstances prevented them from enrolling for formal education.

30. The aim of the technical education and vocational training policies and programmes is to increase the number of persons enrolled at technical and vocational colleges to more than 12 per cent of the number of students enrolled for secondary education (trainees are permitted to enrol at these colleges after completing their 9-year primary education). There are currently 26 such colleges and training institutions, distributed among the various governorates of the Republic, which employ 960 teachers who provide instruction and training in specialized fields such as electrical engineering, electronics, mechanical engineering (vehicles and agricultural equipment), production mechanics, structural engineering, finishing, carpentry, the hotel and tourist trades, agriculture and veterinary medicine.

Development of education during the period 1990-1999

Academic year	Number of schools	Number of students	Number of teachers
1990/91	10 746	2 041 074	54 864
1999/2000	14 661	3 335 214	150 290

G. Economic indicators

31. In 1998, the gross national product amounted to 638.145 billion rials.

32. The Yemeni economy depends primarily on agricultural and fishing activities, followed by government services, the extraction industries, transport, storage and communications. All of these sectors were developed considerably during the period 1990-1999.

33. This period can be divided into two parts:

(a) The period 1991-1994, which was characterized by evident economic difficulties insofar as the gross domestic product declined, the average rate of growth amounted to 1 per cent, the public budget recorded a large deficit equivalent to 16.7 per cent of GDP in 1994 and the balance-of-payments deficit amounted to 13 per cent of GNP;

(b) The period 1995-1999, which began with a series of remedial economic measures consisting in economic, financial and administrative reform programmes designed to achieve, inter alia:

(i) Positive growth rates;

(ii) A reduction in the rate of inflation;

(iii) Equilibrium in the balance of payments.

34. These programmes had clearly beneficial effects for the national economy insofar as the average growth rate of GNP increased to 6.5 per cent and the deficit in the balance of payments declined from 13 per cent to 2 per cent of GNP.

II. STRUCTURE OF THE SYSTEM OF GOVERNMENT IN THE REPUBLIC OF YEMEN

A. The political system

35. The Republic of Yemen is an Arab Islamic State with a republican system of government. Article 1 of its Constitution stipulates that: "The Republic of Yemen is an independent and sovereign Arab Islamic State".

36. Yemen has a democratic parliamentary political system, comprising features of the presidential and parliamentary systems, the principal characteristics of which are as follows:

(a) Yemen is a constitutional, republican, united (single as opposed to federal or confederated) Arab Islamic State;

(b) Yemen is a democracy which practises multiparty political pluralism as the basis for peaceful sharing and transfer of authority;

(c) Authority is based on the concept of sovereignty of the people, who are the holders and the source of authority, which they exercise directly through referendums and public elections, and indirectly through legislative and executive bodies and elected local councils;

(d) The State's international relations are based on recognition of, and compliance with, the Charter of the United Nations, the Universal Declaration of Human Rights, the Pact of the League of Arab States and all the generally recognized rules of international law (article 6 of the Constitution);

(e) The economic system is based on freedom of economic activity and operates in accordance with objective legal, administrative and procedural principles which ensure social justice, the development of production, social equilibrium, equality of opportunity, fair competition between the various economic sectors, and respect for private property;

(f) The State's social system is based on the family, which is sustained by religion, morality and patriotism, and on society, which is sustained by mutual support and solidarity which, in turn, are based on justice, freedom and equality;

(g) All citizens are equal before the law, without any discrimination among them in regard to their rights and obligations;

(h) The system of government is based on the principle of the separation of powers and cooperation between them;

(i) Yemen recognizes the principle of judicial review and amendment of the Constitution in accordance with specific conditions and procedures.

37. Since the reunification of Yemen in 1990, the Yemeni people have enjoyed legislative and legal safeguards following the abolition of the laws that were in force during the period when the country was split into two halves. The system of government in the Republic of Yemen is based on the principle of separation of legislative, executive and judicial powers, each of which protects human rights by complying strictly with the laws regulating such protection. In addition to the fact that government is based on sovereignty of the people and separation of powers, the principal internal safeguards of human rights in the Republic of Yemen also include the establishment of a Supreme Court which monitors the constitutionality of legislation, recognition of the right to form political parties and trade unions, freedom of the press, and the fact that laws are formulated in a manner that does not derogate from human rights.

B. The legislative authority

38. The legislative authority is the body entitled to promulgate the binding rules which govern the behaviour of persons within the territory of the State. Under the Yemeni Constitution, the right to promulgate legislation is vested in the House of Representatives, which constitutes the legislative authority, although recognition is also given to the system of referendums among the electorate, in its capacity as the body in which sovereignty is inherently vested, on important issues as happened in the case of the referendum on the Constitution of the Republic of Yemen, which was held on 15 and 16 May 1991, and the referendum on the latest constitutional amendments, which was held on 20 February 2001.

C. The House of Representatives

39. The enactment of legislation and approval of the general policy and plans of the State, including its socio-economic development plan and its budget and final accounts, are among the functions of the House of Representatives, which also monitors the acts of the executive authority in the manner specified in the Constitution (art. 62).

1. Composition of the House of Representatives

40. The Constitution adopts the system of a unicameral House, all the members of which are elected by the people. Article 63 of the Constitution stipulates that: "The House of Representatives shall consist of 301 members freely elected on the basis of universal, equal and direct suffrage by secret ballot. The Republic shall be divided into electoral constituencies the population of which shall be equal in number within a range of plus or minus 5 per cent. One member shall be elected from each constituency".

2. Eligibility for membership of the House of Representatives

41. Article 64 (a) of the Constitution of the Republic of Yemen stipulates that the members of the House of Representatives must meet the following conditions:

(a) They must be Yemenis;

(b) They must be over 25 years of age;

(c) They must be literate;

(d) They must be of commendable character and conduct, must fulfil their religious obligations and must not have been convicted of an offence prejudicial to honour or integrity under the terms of a final court judgement unless they have subsequently been restored to good standing.

3. Term of the House of Representatives

42. Article 65 of the Constitution stipulates that: "The House of Representatives shall be elected for a term of six Gregorian calendar years beginning on the date of its first meeting. The President of the Republic shall call upon the electorate to elect a new House at least 60 days before the expiration of its term. If this is precluded by circumstances of force majeure, the existing House shall continue to exercise its constitutional authority until the said circumstances no longer apply and a new House has been elected."

4. Principal organs of the House of Representatives

43. (a) The Speaker of the House: At its first meeting, the House elects, by an absolute majority vote among its members, a Speaker and the members of the Presidium. The voting, by secret ballot, takes place at a public meeting and, in the case of the Speaker, is for a single candidate. The Speaker of the House presides over its meetings, represents the House in its contacts with other bodies, speaks on its behalf in accordance with its wishes and supervises all its work, as well as the work of all its organs; (b) The Presidium: The Presidium, consisting of the Speaker of the House and his three deputies, constitutes the House's standing body. It is answerable to the House for all its activities and exercises the powers assigned to it under the terms of the Constitution and the Bylaws of the House, particularly in regard to supervision of the activities of the House and its committees and assisting those committees in the performance of their tasks; (c) The Committees: The House establishes standing committees to assist it in the discharge of its legislative, monitoring and steering functions. The work is divided among them in accordance with their fields of specialization. The great importance that is attached to these committees stems from the fact that they focus on specific fields and, therefore, can undertake a thorough and meticulous study of matters falling within the scope of their field of activity. By virtue of the freedom granted to the members of the House to join one or more committees to the activities of which they can contribute, the work of these committees is characterized by a certain degree of flexibility and vitality. The committees constitute the core of the House, since their task is to study the matters or bills of law referred to them and to submit appropriate recommendations, which have a fundamental influence on the House's decision-making. Each committee consists of 10 to 15 members. The present House of Representatives has 19 such standing committees, which are listed below:

(i) The Constitutional and Legal Affairs Committee;

(ii) The Development, Petroleum and Mineral Resources Committee;

(iii) The Trade and Industry Committee;

(iv) The Financial Affairs Committee;

(v) The Education Committee;

(vi) The Higher Education, Youth and Sports Committee;

(vii) The Electricity, Water, Construction and Urban Planning Committee;

(viii) The Environment and Public Health Committee;

(ix) The Communications and Transport Committee;

(x) The Agriculture, Fisheries and Water Resources Committee;

(xi) The Manpower and Social Affairs Committee;

(xii) The Foreign Affairs and Expatriates Committee;

(xiii) The Justice and Awqaf (Religious Endowments) Committee;

(xiv) The Committee on the Codification of the Principles of the Islamic Shari'a;

(xv) The Defence and Security Committee;

(xvi) The Local Administration Committee;

(xvii) The Information, Culture and Tourism Committee;

(xviii) The Petitions and Complaints Committee;

(xix) The Public Freedoms and Human Rights Committee;

(d) The Secretariat: This is the executive organ of the House which conducts its technical, administrative and financial affairs and implements the directives of the Presidium. It consists of a Secretary-General and an Assistant-Secretary-General, who are appointed by the President of the Republic on the basis of a recommendation by the Presidium of the House.

5. Functions of the House of Representatives

44. The House of Representatives discharges the following three functions:

(a) A political function: This consists in monitoring the acts of the executive authority and directing the policy of the Government through its expression or withdrawal of confidence therein. This political function also includes the right to call to account, investigate, interpellate and move for a withdrawal of confidence, if necessary;

(b) A legislative function: This intrinsic function of the House of Representatives includes approval of the bills of law referred to it by the Government or proposed by members of the House. The legislative process passes through three stages: (i) proposal; (ii) deliberation and voting; (iii) approval and promulgation;

(c) A financial function: This is one of the most important functions assigned to the House of Representatives under the terms of the Constitution. It includes:

(i) Approval of the State's public budget (art. 88 (a));

(ii) Approval of the final accounts (art. 91);

(iii) Approval of treaties, taxes and loans (art. 92).

45. Two parliamentary elections have been held. The first, held on 27 April 1993, was fought by 22 of the 40 licensed political parties and the number of candidates amounted to 1,226 from political parties and organizations and 1,940 independents from all parts of the Republic. The proportion of registered voters who actually voted amounted to 90.83 per cent. The fact that only two women were elected, which is a very small proportion in comparison with the number of male members of the House of Representatives, is attributable to the inherited social traditions in which the Yemeni people have been brought up. The second parliamentary election, held on 27 April 1997, were fought by 12 political parties and organizations. A large number of international and local observers helped to monitor both elections, which were conducted in a democratic manner as attested by all.

46. During the first decade of its existence, the Republic of Yemen had three Houses of Representatives:

(a) The Transitional House of Representatives for the period from 22 May 1990 to 27 April 1993, which consisted of members of the Consultative Council of the Former Yemen Arab Republic (159 members) and members of the Supreme People's Council of the former People's Democratic Republic of Yemen (111 members), together with 31 other members consisting of eminent political and social personalities appointed by the Presidium;

(b) The House of Representatives for the period from 27 April 1993 to 27 April 1997, all the members of which were elected directly by the people (301 members);

(c) The House of Representatives for the period from 27 April 1997 to 27 April 2001, all the members of which were elected directly by the people (301 members).

D. The executive authority

47. In the Yemeni political system, the executive authority is composed of two separate organs: the Presidency and the Government, consisting of the Council of Ministers. The executive authority is exercised on behalf of the people by the President of the Republic and the Council of Ministers within the limits laid down in the Constitution (art. 105).

1. The Presidency of the Republic

48. Prior to its amendment in 1994, the Constitution of the Republic of Yemen had adopted the principle of a collective Presidency, consisting in a Presidential Council composed of five members, which continued until 1994 when the Constitution was amended by the House of Representatives after the collective Presidency was found to be ineffective. Following that constitutional amendment on 28 September 1994, the Presidency of the Republic has consisted of a President and a Vice-President appointed by the President.

49. The conditions to be met by candidates for the post of President of the Republic, as stipulated in article 107 of the Constitution, are as follows: he must be Yemeni, born of Yemeni parents, and must not be under 40 years of age; he must enjoy his political and civil rights; he must be of commendable character and conduct and must practise Islamic observances; he must not have been convicted of an offence prejudicial to honour or integrity under the terms of a final court judgement unless he has subsequently been restored to good standing; he must not be married to a foreign woman, nor may he marry a foreign woman during his term of office.

2. Manner of assumption of, and functions assigned to, the Presidency of the Republic

50. Article 108 of the Constitution stipulates that the nomination and election of the President of the Republic shall be as follows:

(a) Candidatures shall be submitted to the Speaker of the House of Representatives;

(b) The candidatures shall be examined, in order to ensure that the nominees meet the constitutionally stipulated conditions, at a joint meeting of the presidiums of the House of Representatives and the Consultative Council;

(c) The names of the candidates who meet the conditions shall be presented at a joint meeting of the House of Representatives and the Consultative Counsel for nomination. Each candidate for the post of President of the Republic must be nominated by at least 5 per cent of the total number of members attending the meeting. Nomination shall be by direct secret ballot;

(d) The joint meeting shall be required to nominate at least three persons for the post of President of the Republic so that their names can be submitted to the people in competitive elections, in which the number of nominees must not be less than two;

(e) The President of the Republic shall be chosen by the people in competitive elections;

(f) The person who obtains an absolute majority of the votes cast in the election shall become the President of the Republic. If none of the nominees obtains such a majority, a second electoral round shall be held, in accordance with the same above-mentioned procedures, between the two nominees who obtained the largest number of votes cast.

3. Term of the presidential mandate

51. Article 112 of the Constitution stipulates that: "The term of office of the President of the Republic shall be seven Gregorian calendar years beginning on the date on which he takes the constitutional oath. No one may assume the office of President for more than two seven-year terms."

52. It is not permissible to combine the office of President of the Republic with other occupations, since direction of the helm of government is a full-time task. Accordingly, article 118 of the Constitution stipulates that, during his term of office, the President of the Republic shall not engage, even indirectly, in a liberal profession or a commercial, financial or industrial activity, nor shall he purchase or lease any property of the State, even through a public auction, or rent, sell or barter to the State any of his own property. Article 117 of the Constitution further stipulates that the salary and allowances of the President of the Republic shall be determined by law and he shall not receive any other emolument or remuneration.

53. This bipolarity of executive authority in the parliamentary or mixed system means that political responsibility is borne by the Government and not by the President of the Republic who, in his capacity as head of State, symbolizes the country's sovereignty and independence and, therefore, his personal immunity can be lifted only if so requested by half of the members of the House of Representatives and he can be impeached, by a majority decision of two thirds of the members of the House, only if he commits high treason, violates the Constitution or acts in a manner detrimental to the country's sovereignty and independence. There are legally prescribed procedures for impeachment of the President. If both the President and his Vice-President were impeached, the Presidium of the House of Representatives would temporarily assume the functions of the Presidency of the Republic until the court handed down its judgement. If either of them were convicted, he would be removed from office in accordance with the Constitution without prejudice to any other penalties. None of the offences referred to in article 128 of the Constitution are subject to any statute of limitations.

4. Functions and powers of the President of the Republic

54. Article 119 of the Constitution specifies the tasks and functions assumed by the President of the Republic, which can be classified as follows:

(a) In the political and administrative field:

(i) Formulation of the general policy of the State in collaboration with the Government and supervision of its implementation;

(ii) Instructing the person concerned to form a Government and issuing a presidential decree naming its members;

(iii) Inviting the Council of Ministers to attend a joint meeting with the President of the Republic whenever necessary;

(iv) Appointment and dismissal of senior civilian and military officials of the State, in accordance with the law;

(v) Calling a public referendum;

(b) In the legislative field:

(i) Calling upon the electorate, at the scheduled time, to elect the House of Representatives;

(ii) Calling upon the elected House of Representatives to hold its first meeting (article 70 of the Constitution);

(iii) The right to ratify bills of law approved by the House of Representatives and to promulgate decrees and implementing regulations pertaining thereto;

(iv) The right to promulgate laws, in the sense that the promulgation of laws by the President of the Republic is equivalent to the issue of a "birth certificate" for such laws;

(v) The right to object to bills of law, in the sense that the President of the Republic is entitled to request reconsideration of a bill of law that has been approved by the House of Representatives, in which case he must refer it back to the House of Representatives, stating the reasons for his decision, within 30 days from the date on which it was submitted to him. If he fails to refer it back to the House within that time limit or if, having been referred back to the House, it is once again approved by a majority of the members of the House, it is deemed to be enactable and must be promulgated by the President of the Republic within two weeks. If he fails to do so, it is deemed to have been constitutionally enacted without the need for promulgation;

(vi) The right to dissolve the House of Representatives. This right is vested in the President of the Republic in his capacity as such. However, the Constitution makes the exercise of this right conditional on the holding of a popular referendum on the justification for such dissolution. The Constitution further stipulates that the electorate must be called upon to elect a new House of Representatives within 60 days from the date of promulgation of the decision to dissolve the House. Moreover, a House may under no circumstances be dissolved during its first session (article 101 of the Constitution);

(c) At the international level:

The President of the Republic enjoys extensive powers at the international level. Since he represents the State at home and abroad, he is always kept informed of international events through the regular reports submitted to him by Yemeni diplomatic missions abroad and through his direct relations with the leaders of various States (article 119 (a) of the Constitution). The President of the Republic is also empowered to establish diplomatic missions and appoint ambassadors to other States and to welcome, and receive the credentials of, ambassadors appointed in Yemen (article 119, paragraphs 14 and 15, of the Constitution). In addition, the President of the Republic ratifies agreements which have been approved by the Council of Ministers and which do not need to be approved by the House of Representatives and he issues decrees ratifying agreements and treaties that have been approved by the House of Representatives (article 119, paragraphs 12 and 13, of the Constitution);

(d) With regard to the armed forces:

Being responsible for protecting the country's safety, independence and territorial integrity, the President of the Republic is the Commander-in-Chief of the Armed Forces. The Constitution specifies some of his functions in this field as follows:

(i) The President of the Republic is the Commander-in-Chief of the Armed Forces (article 111 of the Constitution);

(ii) The President of the Republic appoints the members of the National Defence Council (article 119, paragraph 7, of the Constitution);

(iii) He establishes military ranks in accordance with the law (article 119, paragraph 10, of the Constitution);

(iv) He awards the medals and decorations provided for by law and authorizes the wearing of decorations awarded by other States (article 119, paragraph 11, of the Constitution);

(e) Exceptional powers:

In the event of the country being exposed to dangers that might threaten its security and territorial integrity, the President of the Republic has an obligation to take appropriate measures to counter them by, inter alia, proclaiming a state of emergency by presidential decree. The House of Representatives must be convened in order to consider the said proclamation within seven days from the date on which it is issued. If the House had been dissolved, the former House would be reconvened in accordance with the Constitution. If the House were not convened, or if the proclamation were not submitted to it for consideration, the state of emergency, which would be of limited duration, would be terminated and could be extended only with the approval of the House of Representatives. At all events, a state of emergency can be proclaimed only for important reasons such as the outbreak of war, internal civil strife or natural disasters (article 121 of the Constitution);

(f) In the judicial field: The President of the Republic exercises functions of a judicial nature, including:

(i) Promulgation of a presidential decree appointing the president, vice-president and members of the Supreme Court of the Republic on the basis of a recommendation by the Supreme Council of the Judiciary;

(ii) Ratification of death sentences, which can be carried out only after their ratification by the President of the Republic, who has the right to grant a pardon if he believes that the interests, security and stability of the country so require.

E. The Consultative Council

55. In the former Yemen Arab Republic, a 15-member Consultative Council was formed, under the terms of a presidential decree promulgated in 1989, to study internal and external issues affecting the country's higher national interests. The agreement proclaiming the Republic of Yemen and regulating the transitional period stipulated that the Presidential Council would issue, at its first meeting, a decree forming a 45-member Consultative Council. After the reunification in 1990, the Consultative Council was formed in accordance with a decree promulgated by the Presidential Council. In its present form, the Consultative Council is one of the constitutional institutions the structures and functions of which have been developed, in accordance with the constitutional amendment on which the referendum was held on 20 February 2001, with a view to expanding the scope of advisory participation and benefiting from the specialized technical expertise available in the various parts of Yemen. The functions of the Consultative Council, which comprises 111 members, are specified in articles 125-127 of the Constitution and a number of committees, including the Human Rights and Public Freedoms Committee, are formed within its framework.

F. The constitutional provisions regulating the composition of the Government and specifying its tasks and functions

56. Article 129 of the Constitution stipulates that: "The Council of Ministers shall constitute the Government of the Republic of Yemen. It shall be the highest executive and administrative authority in the State to which all the State's executive departments, agencies and institutions, without exception, shall be subordinate."

57. The Government consists of the Prime Minister, the Deputy Prime Ministers and the Ministers who together constitute the Council of Ministers which discharges its functions collectively. In this way, the Government plays an important political role in the study and formulation of policy. The Ministers are the heads of the ministerial departments, for which they are responsible, and, consequently, exercise considerable administrative authority. Before the Prime Minister and the Ministers assume their functions, they must take the constitutional oath before the President of the Republic. The number of Ministers may vary from one Government to another depending on the requirements of the situation, as well as technical needs and political considerations. Article 137 of the Constitution summarizes the functions of the Government as follows: "The Council of Ministers shall be responsible for the implementation of the general

policy of the State in the political, economic, social, cultural and defence fields in accordance with the laws and decrees." The Council of Ministers (Government) endeavours to protect rights and freedoms, through the faithful implementation of the laws promulgated by the House of Representatives, in collaboration with some governmental and non-governmental institutions which are directly engaged in activities to protect human rights. This clearly shows that the executive authority is responsible for protecting human rights as part of its task of ensuring the implementation of the laws and regulations.

1. Appointment of the Government

58. The Yemeni Constitution adopts the method followed in the parliamentary system by empowering the President of the Republic to select the Prime Minister, as can be seen from article 119 of the Constitution. The Prime Minister, in turn, is empowered to select his Ministers in consultation with the President of the Republic and to seek a vote of confidence in the Government in the light of a manifesto which he submits to the House of Representatives (article 132 of the Constitution).

59. Article 131 of the Constitution stipulates that: "The Prime Minister, his Deputies and the Ministers must meet the conditions of eligibility for membership of the House of Representatives, with the further proviso that none of them shall be under 30 years of age, with the exception of the Prime Minister who shall not be under 40 years of age".

2. Inadmissibility of combining a ministerial function with other work

60. Article 136 of the Constitution stipulates that: "During the discharge of their ministerial functions, the Prime Minister and the Ministers shall not assume any other public office nor shall they engage, even indirectly, in a liberal profession or a commercial, financial or industrial activity. They shall not participate in contracts awarded by the Government or public institutions and shall not combine their ministerial function with membership of the board of directors of any company and, during their term of office, shall not purchase, sell, lease or barter, even through a public auction, any property of the State or rent, sell or barter to the State any of their own property."

3. Functions of the Government

61. Article 137 of the Constitution defines the functions of the Government as follows: "The Council of Ministers shall be responsible for the implementation of the general policy of the State in the political, economic, social, cultural and defence fields in accordance with the laws and decrees and, in particular, shall exercise the following functions:

(a) Participation, together with the President of the Republic, in the formulation of the broad outlines of internal and foreign policy;

(b) Preparation of the State's draft economic plan and annual budget, control of the implementation thereof, and preparation of the State's final accounts;

(c) Preparation of draft legislation and decisions for submission to the House of Representatives or the President of the Republic, as appropriate;

(d) Approval of treaties and agreements prior to their submission to the House of Representatives or the President of the Republic, as appropriate;

(e) Adoption of the measures needed to preserve the internal and external security of the State and to protect the rights of its citizens;

(f) Direction, coordination and monitoring of the activities of Ministries, administrative agencies, public institutions and bodies and the public and mixed sectors, in accordance with the law;

(g) Appointment and dismissal of senior officials, in accordance with the law, and formulation and implementation of policies to develop the technical human resources of government agencies and train manpower, in accordance with the country's needs, within the framework of the economic plan;

(h) Monitoring the implementation of laws and protecting State property;

(i) Supervision of the organization and administration of the monetary, credit and insurance systems;

(j) The contracting and granting of loans within the limits of the State's general policy and the provisions of the Constitution."

The Council of Ministers Act No. 20 of 1991 adds the following functions:

(a) The Council of Ministers shall be responsible for the implementation of the general policy of the State in all fields in a manner consistent with the Constitution, the laws and the decrees of the President of the Republic and shall have the final word in all matters relating to the implementation of general policy;

(b) Without prejudice to the prerogatives of the President of the Republic, the Council of Ministers shall implement the State's foreign policy and undertake the overall supervision of its relations with other States, taking care to maintain mutual respect and common interests. It shall endeavour to develop these relations in a manner conducive to the interests of the Republic of Yemen and shall formulate the rules and principles that govern and regulate the activities of diplomatic, economic, social and cultural bodies in relation to other States and international organizations so that they can be submitted to the President of the Republic for approval and monitoring of compliance therewith;

(c) The Council of Ministers shall take the measures needed to guarantee strict application of the provisions of the Constitution and the law and to ensure that its subordinate central and local government agencies, as well as all public institutions and other facilities, conduct their activities in accordance with the Constitution and the law;

(d) The Council of Ministers shall approve the draft decrees and regulations needed to implement legislation and regulate public agencies and departments prior to their submission to the President of the Republic for promulgation. The Council of Ministers shall also issue, and ensure the implementation of, decrees and orders which it is empowered to issue or which are in accordance with the legislation, its implementing regulations and the decrees of the President of the Republic. Such decrees, orders and regulations shall be enforceable in all parts of the Republic;

(e) The Council of Ministers shall have the right to annul, modify or suspend the implementation of decisions taken by Ministers or the executive organs of local councils if they are contrary to the law or inconsistent with the policy of the State with a view to ensuring that they are implemented in a more appropriate manner;

(f) With regard to the exercise of control functions, all the Ministries and agencies, including public organizations and institutions and local authorities which are subordinate to the Council of Ministers shall provide the Prime Minister with periodic reports on their activities in financial, economic, administrative, developmental, commercial, security, military and other fields, on the progress made in the implementation of the general plan, on the extent to which the legislation, decrees and regulations in force are being applied and on the activities of political parties, organizations, trade unions and professional associations in order to ensure that the requisite information on the implementation of the State's general policy and on the tasks and plans of the Government are made available in good time so that they can be submitted to the Council of Ministers.

4. Functions and powers of the Prime Minister

62 The Council of Ministers Act No. 20 of 1991 defines the functions and powers of the Prime Minister as follows:

(a) The Prime Minister shall direct the work and chair the meetings of the Council of Ministers;

(b) The Prime Minister shall schedule, and draw up the agenda of, the meetings of the Council of Ministers, sign the decrees and orders that it issues and represent it in all internal and external matters relating to the implementation of the State's policy and falling within the constitutional and legal jurisdiction of the Council of Ministers;

(c) The Prime Minister shall represent the Council in all internal and external matters relating to the implementation of the State's policy and shall sign the decrees and orders issued by the Council and falling within its constitutional and legal jurisdiction;

(d) The Prime Minister shall supervise the implementation of the regulations, decrees and orders issued by the President of the Republic, as well as the decrees and orders issued by the Council of Ministers, and shall coordinate the work of the central and local agencies of the State;

(e) In matters relating to the discharge of the functions of the Council of Ministers, the Prime Minister shall have the right to issue binding orders to Ministers, provincial governors and heads of central and local agencies of the State and to require them to submit reports on the discharge of their functions;

(f) The Prime Minister shall have the right to suspend the implementation of decisions taken by Ministers, provincial governors or the heads of central and local agencies of the State if they are inconsistent with the State's policy. He shall submit such suspension orders, together with a statement of the reasons therefor, within one month to the Council of Ministers, which shall be empowered to approve, modify or annul such orders;

(g) In exceptional circumstances in which there is a need to implement the State's general policy, the Prime Minister may take decisions or issue orders, in accordance with or pursuant to laws and presidential decrees, before they have been approved by the Council of Ministers. He shall submit them to the Council of Ministers at its next meeting and they shall be deemed null and void if the Council fails to approve them. The criteria and rules regulating this empowerment are clearly defined in the implementing regulations;

(h) Powers of attorney may be issued, under the signature of the Prime Minister, for any members of the Council of Ministers to initial agreements which need to be concluded, in the public interest, with other States or international or regional bodies or organizations.

5. Functions and powers of members of the Council of Ministers

63. The Council of Ministers Act No. 20 of 1991 defines the functions and powers of members of the Council of Ministers as follows:

(a) Without prejudice to any of the powers vested in the Prime Minister under the terms of the Constitution and the laws in force, the Deputy Prime Ministers shall assist him in the discharge of his functions. The implementing regulations shall specify their respective functions and powers, with due regard for the powers vested in any one of them under the terms of the decree forming the Government;

(b) The members of the Council of Ministers shall exercise the functions and powers assigned to them, each member of the Council being individually answerable for the actions undertaken in his field of jurisdiction. All the members of the Council shall be jointly answerable for the actions of the Ministers and shall have an obligation to implement the general policy of the State in accordance with the laws defining their fields of jurisdiction. They shall all be answerable and accountable to the Council of Ministers and the President of the Republic. The Ministers shall be answerable to the Prime Minister in respect of their exercise of their respective functions and powers;

(c) The members of the Council of Ministers shall have an obligation to take the decisions and measures needed to discharge the functions assigned to them in their respective fields of jurisdiction in accordance with the Constitution, the law, the decrees and regulations promulgated by the President of the Republic and the decisions taken by the Council of

Ministers. They shall also have an obligation to direct and supervise the implementation of the decisions that they take and to develop and train technical human resources and manpower within the framework of the agencies that they are supervising;

(d) The members of the Council of Ministers shall submit proposals concerning the Council's agenda and work plan in accordance with principles, rules and criteria laid down in its rules of procedure;

(e) The members of the Council of Ministers shall coordinate among themselves on matters which require such coordination and shall endeavour to settle matters on which there is controversy, pending which they shall submit their differing viewpoints, in clear and comprehensive written form, to the Prime Minister;

(f) The members of the Council of Ministers may submit any urgent matter falling within their field of jurisdiction to the Prime Minister, requesting his opinion and guidance thereon, in a written memorandum giving a detailed presentation of the matter in question and their viewpoints thereon;

(g) The members of the Council of Ministers shall inform the Prime Minister or the Council of major occurrences and violations of the regulations or policy of the State, as well as anything that impedes or prevents the implementation of laws or decrees, in their respective fields;

(h) The members of the Council of Ministers shall discharge their respective functions and responsibilities, as defined in the decree forming the Government or the decrees under the terms of which they were appointed. Each of them shall also assume the functions and powers legally vested in members of the Council of Ministers and shall carry out the tasks and functions assigned to him in his capacity as a member of the highest authority.

6. Vote of confidence in the Government and responsibilities of Ministers

64. Within a maximum of 25 days from the date of formation of the Government, the Prime Minister must submit the Government's manifesto to the House of Representatives for a majority vote of confidence. If the House is not in regular session, the President of the Republic must convene it for an extraordinary session. The members of the House, as a whole, have the right to comment on the Government's manifesto. The Government's failure to obtain the required majority is deemed equivalent to a withholding of confidence (article 86 of the Constitution).

65. The members of the Council of Ministers exercise the functions and powers assigned to them, each member of the House being individually answerable for the actions undertaken in his field of jurisdiction. All the members of the House are jointly answerable for the actions of the Ministers, by which they are bound and in respect of which they are accountable to the House of Representatives and the President of the Republic. The Ministers are answerable to the Prime Minister in respect of their individual exercise of the functions and powers vested in them

for the discharge of the tasks assigned to each Ministry. Each Minister supervises the affairs of his Ministry, directs its central and branch administrations in all parts of the Republic and must implement the Government's general policy in his Ministry in accordance with the laws, regulations and decrees in force.

7. Meetings of the Council of Ministers

66. The Council of Ministers holds one regular meeting every week and may be convened for extraordinary meetings, if necessary, in the manner stipulated in its rules of procedure. To attain a quorum, meetings of the Council of Ministers must be attended by a majority of its members. Decisions are taken by a majority vote among the members present, the chairman having a casting vote in the event of a tied vote. All the members of the Council of Ministers have an obligation to act in accordance with the decisions taken by the Council.

8. Relationship with the President of the Republic

67. The Council of Ministers must provide the President of the Republic with periodic reports on the progress of its work and must also present the reports, information, data or studies requested by the President of the Republic. The President of the Republic may also convene the Council of Ministers for a meeting under his chairmanship to discuss the country's situation or other urgent matters.

9. The local councils

68. Article 145 of the Constitution stipulates that the territory of the Republic of Yemen shall be divided into administrative units the number, boundaries and subdivisions of which, as well as the manner of nomination and selection of their heads, shall be specified by law.

69. The administrative units (governorates and districts) enjoy corporate personality, each having a local council which is freely elected on the basis of direct and equal suffrage. These councils propose programmes, plans and investment budgets for their administrative units and are empowered to supervise, control and call to account the organs of the local authority. The Constitution also adopts the principle of administrative and financial decentralization as the basis of the system of local administration (article 147 of the Constitution).

70. Each administrative unit and local council constitutes an integral part of the State authority, the provincial governors being accountable and answerable to the President of the Republic and the Council of Ministers. The manner of control of the actions of local councils is determined by law. The Local Authority Act No. 4 of 2000 contains textual provisions that regulate the activities, powers and financial resources of the local councils and executive organs in the administrative units, as well as the procedure for the control of their actions and the procedure for their dissolution.

71. The first elections to the local councils in the country's governorates, which were held in February 2001, added a new element to the democratic structure in Yemen.

G. The judicial authority

72. The judicial authority is responsible for interpreting and applying the law in the various disputes brought before it. The independence of the judiciary, which constitutes a basic safeguard for the rights and freedoms of citizens and is also an essential requirement for preservation of the rule of law, inspires people with confidence in the impartiality of the judiciary and the legitimacy of the political system.

73. The judiciary is a legally, financially and administratively independent authority the organs of which include the Department of Public Prosecutions. All disputes and offences are adjudicated by the courts, the judges of which are independent and, in their administration of justice, subject to no authority other than the law. No one is permitted to interfere in any way in lawsuits or other judicial affairs, such interference being deemed a punishable offence in respect of which legal proceedings are not subject to any statute of limitations (article 149 of the Constitution).

74. The organs and functions of the judiciary are regulated by the Judicial Authority Act No. 1 of 1991. Citizens have the right to apply to the judiciary and its courts for legal redress in accordance with article 51 of the Constitution, which stipulates that: "Citizens shall have the right to apply to the judiciary to protect their legitimate rights and interests. They shall also have the right to submit complaints, criticisms and proposals, either directly or indirectly, to the agencies and institutions of the State."

75. The judicial system in Yemen comprises the following:

- The Supreme Council of the Judiciary;
- The courts;
- The Department of Public Prosecutions;
- The Judicial Inspection Authority;
- The Ministry of Justice.

1. The Supreme Council of the Judiciary

76. The Supreme Council of the Judiciary endeavours to ensure that the safeguards enjoyed by judges in regard to appointment, promotion, dismissal, transfer, retirement and separation from service are applied in accordance with the Judicial Authority Act No. 1 of 1991. It is the body empowered to discipline judges and members of the Department of Public Prosecutions in the event of any breach of their official duties. It formulates the general policy in regard to development of the judiciary, studies bills of law concerning the judiciary and also studies and approves the draft budget of the judiciary. However, the Council is not a judicial body and,

therefore, no directives can be issued by it, or in its name, to the courts or judges in connection with cases which have been referred to them or in which judgements have been handed down, nor is it an administrative or executive organ in the name of which administrative or executive directives concerning judges can be issued.

2. The courts

77. The courts consist of the following:

- The Supreme Court;
- The courts of appeal;
- The courts of first instance.

The courts are the judicial bodies competent to adjudicate in all disputes and offences. Their fields of competence and geographical jurisdiction are defined by law.

(a) The Supreme Court

78. The Supreme Court, which is the highest judicial body in the Republic of Yemen and sits in the capital Sana'a, consists of a President, one or more Vice-Presidents and an adequate number of judges, their number being determined at the time of formation of the Court, and whenever necessary thereafter, under the terms of a decree promulgated by the Minister of Justice in consultation with the President of the Court after the Supreme Council of the Judiciary has granted its approval. The members of the Court are appointed by a decree issued by the President of the Republic on the basis of a recommendation from the Supreme Council of the Judiciary. The Supreme Court exercises the following functions.

Verification of the constitutionality of legislation, bill of law, regulations and decrees; adjudication in jurisdictional disputes between judicial bodies; adjudication in election contests; adjudication in appeals against final judgements which have become enforceable; and judicial control of all the courts in the Republic.

79. The Supreme Court, which enjoys financial and administrative autonomy, comprises Constitutional, Civil, Commercial, Criminal, Personal Status, Administrative, Military and Appeal Divisions the composition of which is determined by the Supreme Council of the Judiciary. Each Division has a bench consisting of five judges, with the exception of the Constitutional Division which has seven judges. Decisions and judgements are handed down by absolute majority.

(b) The courts of appeal

80. The courts of appeal, being constituted as and when required, are not restricted in number. They are competent to hear cases in which appeals are permitted by law, as well as other cases in which they have jurisdiction under the terms of any other legislation. Their judgements can be challenged before the Supreme Court.

(c) The courts of first instance

81. The courts of first instance constitute the courts of primary jurisdiction, the judgements of which can be challenged before the courts of appeal. There are specialized courts which hear cases involving public property, traffic offences and commercial matters, etc. Yemeni law prohibits all forms of special courts, such as State security courts. Juveniles are tried in accordance with the Juveniles Act.

3. The Department of Public Prosecutions

82. This is the body entrusted with the defence of society. It investigates offences, collects evidence, indicts offenders, institutes criminal proceedings and monitors court procedures and the enforcement of court orders and judgements in criminal matters. It is also responsible for inspecting detention centres and prisons in order to ensure that their inmates are being detained in a lawful manner.

The Attorney-General

83. The Attorney-General is responsible for instituting criminal proceedings on behalf of society. He does so in person, or through his assistants, in collaboration with the members of the Department of Public Prosecutions unless otherwise explicitly stipulated. The members of the Department of Public Prosecutions are subject to the provisions of the Judicial Authority Act in the same way as other members of the judiciary, particularly in regard to conditions of appointment, transfer, assignment, rights and obligations, prohibitions and immunities, supervision, inspection, control, accountability and discipline, unless otherwise explicitly stipulated.

4. The Judicial Inspection Authority

84. This body, which is an organ of the Ministry of Justice, monitors and evaluates the competence and conduct of judges. It is empowered to receive complaints against judges and has an obligation to keep the administration of justice under surveillance and to submit to the Minister of Justice any proposals that it deems appropriate in this regard. It must inform the judges concerned of anything noted against them. The Judicial Inspection Authority is not regarded as a judicial body, since it does not have the right to issue directives or orders to the courts concerning cases brought before them, nor does it have the right to do so when conducting unannounced inspections. Such inspection is a technical function that relies on access to legal records, information and documents which reflect the work of the judiciary and enable the inspectors to evaluate a judge's ability to understand the substantive and procedural rules laid down in legal texts and to apply them properly to the facts of the case when adjudicating in disputes. This evaluation is carried out by monitoring judgements and decisions after they have been handed down. In other words, judicial inspection is based solely on legal judgements and procedures in cases which have already been heard and adjudicated by a judge. Its purpose is to evaluate his competence and not to supervise the administration of justice in cases which are being heard.

5. The Ministry of Justice

85. This is the executive agency which endeavours to serve and develop the judicial bodies in such a way as to ensure that they discharge their function of administering justice and protecting the legitimate rights of the people by providing all the technical, financial and administrative services and facilities needed by the courts and the judges working therein. The Ministry is not a judicial body and, therefore, does not interfere in judicial business, nor does it issue any directives or orders to the courts in connection with cases brought before them.

86. Candidates for posts in the judicial authority are required to meet the following conditions:

(a) They must be Yemeni citizens enjoying full legal capacity and must be free from disabilities that might affect their administration of justice;

(b) They must not be under 30 years of age and cannot assume a judicial function until they have completed a minimum of two years' training in the judicial sphere;

(c) They must have obtained a diploma from the Higher Judicial Institute after being awarded a university degree in Islamic and positive law or in jurisprudence from a recognized university in or outside the Republic of Yemen;

(d) They must be of good conduct, standing and reputation and must not have been convicted of an offence prejudicial to honour or integrity.

6. Independence of the judiciary

87. The Judicial Authority Act No. 1 of 1991 emphasizes that the judiciary is an independent authority. This is also confirmed in article 149 of the Constitution, which stipulates that: "The judiciary shall be a legally, financially and administratively independent authority, the organs of which shall include the Department of Public Prosecutions. All disputes and offences shall be adjudicated by the courts, the judges of which shall be independent and, in their administration of justice, subject to no authority other than the law. No one shall be permitted to interfere in any way in lawsuits or other judicial affairs, such interference being deemed a punishable offence in respect of which legal proceedings shall not be subject to any statute of limitations." The independence of the judiciary is a firmly established and essential prerequisite for the achievement of justice in society. If the judiciary were not independent, there could be no justice. If government is to be based on justice, justice itself must be based on an independent judiciary.

7. Guarantee of the impartiality of the judiciary

88. In order to guarantee the impartiality and independence of the judiciary, the Judicial Authority Act No. 1 of 1991 stipulates that it is prohibited for judges to engage in commerce or to combine their judicial function with any other function or activity that would be incompatible with the duties of a judge or the independence and honour of the judiciary. Before assuming his duties, anyone who is appointed to a post in the judicial authority is required to submit a list of

the financial assets and real property that he owns and this list is reviewed every year by the competent authority in the Supreme Council of the Judiciary. It is prohibited by law for judges to disclose confidential deliberations and every person appointed to a post in the judicial authority is required to take the oath before assuming his duties.

8. Immunity of judges

89. The immunities enjoyed by judges include the following:

(a) Judges can be dismissed from office only if they are convicted in an impeachment action in accordance with the provisions of the Judicial Authority Act;

(b) Except in cases of flagrante delicto, a judge can be arrested or held in preventive detention only with the permission of the Supreme Council of the Judiciary, which is empowered to authorize his continued detention or order his release with or without bail;

(c) Criminal proceedings can be brought against judges only if so authorized by the Supreme Council of the Judiciary at the request of the Attorney-General. The court before which the judge would be tried would be designated by the Supreme Council of the Judiciary.

H. The legal system under which human rights are protected

1. Rights and freedoms guaranteed by the Constitution of the Republic of Yemen

90. The purpose of the Yemeni revolution was to guarantee and protect the human rights of the Yemeni people and, to this end, legislation has been promulgated, plans have been formulated, policies have been implemented and numerous national institutions and non-governmental organizations have been established. These public rights and freedoms include the right to life, the right to security, the right to own property, the right to work, freedom of belief and worship and freedom of opinion and expression, etc. The numerous rights and freedoms guaranteed by the Constitution of the Republic of Yemen include the following:

(a) The right of citizenship: This is an inherent human right which entitles a person to enjoy other rights. Anyone who is deprived of this right would become stateless and would lack legal protection. Accordingly, no Yemeni citizen may under any circumstances be stripped of his nationality (article 44 of the Constitution), or extradited to a foreign authority (article 45 of the Constitution);

(b) The right to equality: This is a basic human right which implies legal equality, political equality and the equal right to vote and stand as a candidate for public office provided that the conditions of eligibility therefor are met. All citizens are equal before the law and in regard to their public rights and obligations (article 41 of the Constitution); the State guarantees equal opportunities for all citizens in the political, economic, social and cultural spheres (article 24 of the Constitution); and every citizen has the right to participate in political, economic, social and cultural life (article 42 of the Constitution);

(c) The right to a stable and secure life: No one may be deprived of his liberty except under the terms of a judgement handed down by a competent court and no one may be arrested, searched or detained except in cases of flagrante delicto or by order of the Department of Public Prosecutions or a court judge in accordance with the provisions of the law (article 48 of the Constitution). In order to safeguard personal liberty, any citizen who is arrested must be brought before a court within 24 hours from the time of his arrest and has the right to summon his lawyer to attend the examination, as well as the right to notify his relatives or other persons concerned. If he is sentenced to imprisonment by a competent court, his human dignity must be preserved and he must not be subjected to torture or other forms of harm, nor may he be detained in places other than those designated for that purpose (article 48 of the Constitution);

(d) The right to protection of privacy: The Constitution guarantees the inviolability of the homes, property and honour of citizens. It is prohibited to search homes or place them under surveillance (article 52 of the Constitution);

(e) The right to freedom of expression: Citizens have the right to state their views by every available means, whether verbally, in writing or through publication or assembly, in the manner that they believe will express their opinions or positions (article 42 of the Constitution);

(f) The right to freedom and confidentiality of communication: It is prohibited to censure, delay or disclose the confidential content of postal, telegraphic or telephone communications except where otherwise provided by law (article 53 of the Constitution);

(g) The right to education: The State guarantees the right of all its citizens to education through the establishment of educational institutions and the creation of appropriate conditions for education, which is compulsory at the primary stage (article 54 of the Constitution);

(h) The economic and social rights and freedoms of citizens: Like political rights and freedoms, the purpose of economic and social rights and freedoms is to secure the resources or benefits that every citizen needs in order to guarantee a decent life for himself and his dependants. One of the Government's most imperative duties is to endeavour to overcome the difficulties that prevent citizens from enjoying these rights. The right to work, the right to free choice of employment, the right to own property and the right to social justice are the principal individual rights and freedoms in the economic and social fields. The State has an obligation to promulgate legislation in order to protect producers and consumers, ensure the availability of basic commodities for citizens, prevent monopoly and encourage private capital to invest in the various fields of socio-economic development in accordance with the law.

91. The Constitution recognizes the right to engage in private economic activity and to own property in a manner that is not detrimental to the public interest. It is stipulated that the principles on which the national economy is based include "the protection of private property, which may be expropriated only in the public interest and in return for fair compensation in accordance with the law (article 7 (c) of the Constitution). Article 20 of the Constitution further stipulates that general confiscation of property is prohibited and limited confiscation is permitted only under the terms of a court order.

2. International conventions to which Yemen has acceded

92. Yemen has been among the first States in the region to ratify international human rights instruments. The former northern and southern halves of Yemen signed a number of conventions which the Republic of Yemen inherited after the proclamation of reunification on 22 May 1990. These conventions, with the dates of accession or ratification, are as follows:

(a) General instruments in the field of international human rights law:

(i) The Universal Declaration of Human Rights;

(ii) The International Covenant on Economic, Social and Cultural Rights (9 February 1987);

(iii) The International Covenant on Civil and Political Rights (9 February 1987);

(b) Conventions concerning the prevention of discrimination:

(i) The International Convention on the Elimination of All Forms of Racial Discrimination (18 October 1972);

(ii) The International Convention on the Suppression and Punishment of the Crime of Apartheid (17 August 1987);

(c) Conventions concerning torture, genocide, war crimes and crimes against humanity:

(i) The Convention on the Prevention and Punishment of the Crime of Genocide (9 February 1987);

(ii) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (9 February 1987);

(iii) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (5 November 1991);

(d) Conventions concerning women:

(i) The Convention on the Elimination of All Forms of Discrimination against Women (30 May 1984);

(ii) The Convention on the Political Rights of Women (9 February 1987);

(e) Conventions concerning children:

(i) The Convention on the Rights of the Child (1 May 1991);

(f) Conventions concerning marriage, family and youth:

(i) The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (9 February 1987);

(g) Conventions concerning international humanitarian law:

(i) The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (16 July 1970);

(ii) The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (16 July 1970);

(iii) The Geneva Convention relative to the Treatment of Prisoners of War (16 July 1970);

(iv) The Geneva Convention relative to the Protection of Civilian Persons in Time of War (16 July 1970);

(v) The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (17 April 1990);

(vi) The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (17 April 1990);

(h) Conventions relating to slavery, servitude, forced labour and similar institutions and practices:

(i) The 1953 Protocol amending the Slavery Convention of 1926 (9 February 1987);

(ii) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (6 April 1989);

(i) Conventions concerning refugees:

(i) The Convention relating to the Status of Refugees of 1951 (18 January 1980);

(ii) The Protocol relating to the Status of Refugees (18 January 1980).

3. National institutions for the protection of human rights

93. **(a) The Public Rights and Freedoms Committee of the Consultative Council:** This Committee, attached to the former Consultative Council which was modified in accordance with the recent fifth amendment to the Constitution, plays an advisory role in the protection and promotion of human rights, press freedom and civil organizations and has investigated cases and incidents relating to human rights, particularly in prisons;

(b) The Public Rights and Freedoms Committee of the House of Representatives: This Committee, which is one of the standing committees of the House of Representatives, plays an important role in the ratification of international human rights instruments. It is responsible, inter alia, for ensuring that the national legislation promulgated by the House is consistent with the obligations imposed by international conventions. It is competent to look into human rights issues and investigate any violations that might occur and is also empowered to question the Government and call it to account for any alleged violations of human rights.

(c) The Grievances Committee of the House of Representatives: This Committee, which is one of the standing committees of the House of Representatives, plays an important role in addressing and discussing grievances relating to human rights. Its functions include examination of the complaints submitted to it and the investigation of any violations that might occur. In its capacity as a parliamentary body, it is empowered to question the Government and call it to account for any alleged violations of human rights;

(d) The Higher National Human Rights Committee: Since the establishment of the Republic of Yemen on 22 May 1990, the Government has shown concern for human rights and public and private freedoms, as illustrated by the Constitution and other legislation which it has promulgated. This concern has also been reflected in its rapid signature and ratification of international and regional instruments and conventions concerning human rights. Responsibility for human rights matters was vested in a number of governmental bodies until 1997, when a governmental committee known as the "Committee on Political and Civil Human Rights" was established by decision of the Prime Minister.

94. Believing in the importance of human rights, the Yemeni Government established a Higher National Human Rights Committee to replace the Committee on Civil and Political Human Rights under the terms of Presidential Decree No. 20 of 1998, as amended by Decree No. 92 of 1999. Both decrees sought to ensure that the largest possible number of governmental bodies directly concerned with human rights questions and issues, as well as non-governmental organizations and prominent social personalities, were represented on the Committee. Both decrees also specified the Committee's functions and working methods in the light of the organizational structure and statutes of the Committee and its subcommittees. The new Committee is chaired by the Deputy Prime Minister and Minister for Foreign Affairs or, in his absence, by the Director of the Office of the President of the Republic. The Committee's membership includes Ministers and heads of departments concerned with human rights questions and issues, such as the Minister of the Interior, the Minister for Social Insurance and Social Affairs, the Minister for Legal and House of Representatives' Affairs, the Minister of Justice, the Minister for Labour and Vocational Training, the Minister of Information, the Attorney-General,

the head of the Judicial Inspection Authority and the head of the Central Political Security Agency. The composition of the Committee is currently being discussed with a view to the inclusion of the Minister of State for Human Rights, a new portfolio that was added during the governmental restructuring in April 2001.

1. Functions and responsibilities of the National Committee

95. The Presidential Decree establishing the Higher National Committee and promulgating its statutes specified the following principal functions to be assumed by the Higher Committee and its Standing Subcommittee:

(a) Formulation of policies, plans and programmes to safeguard human rights in the Republic of Yemen and strengthen the role of the bodies responsible for protecting human rights in general, and handling issues relating thereto, in accordance with the Constitution, the laws in force and the international conventions and instruments which our country has ratified;

(b) Supervision of the sound and proper implementation by the national authorities concerned of international conventions and instruments relating to human rights;

(c) Support and encouragement of non-governmental organizations operating in the field of human rights in our country;

(d) Supervision of the preparation of the periodic reports submitted to international organizations by the national authorities concerned on the extent to which the international human rights conventions and instruments which our country has ratified are being implemented;

(e) Receipt and study of letters, notes and communications from various international personalities, organizations and institutions concerned with human rights and the submission of individual replies thereto in accordance with the rules and principles laid down by the Higher National Committee in this regard;

(f) Collection and documentation of all international conventions, instruments and covenants, as well as other details and information concerning human rights-related fields and activities;

(g) Submission of views and comments on laws, instruments, conventions and reports concerning human rights;

(h) Study of reports received from international human rights organizations with a view to expressing an opinion thereon and replying thereto;

(i) Preparation of the requisite studies, reports and analyses on human rights issues in our country and the proposal of appropriate solutions and ways to address problematic aspects thereof;

(j) Supervision of the preparation and implementation of activities illustrating our country's participation in, and celebration of, events commemorating the achievements that the international community has made in the field of human rights.

2. Structure of the Higher National Human Rights Committee

96. The Higher National Committee consists of the following:

(a) A Higher Committee;

(b) A Standing Subcommittee;

(c) An Advisory Body;

(d) A Technical Secretariat;

A. The Higher Committee

97. The Higher Committee includes among its members the heads of the governmental departments concerned with human rights, represented by the following:

The Minister for Foreign Affairs	Chairman
The Director of the Office of the President of the Republic	Deputy Chairman
The Minister for Legal and House of Representatives' Affairs	Member
The Minister of Justice	Member
The Minister of Information	Member
The Minister for Labour and Vocation Training	Member
The Minister for Social Insurance and Social Affairs	Member
The Minister of the Interior	Member
The Attorney-General	Member
The head of the Central Political Security Agency	Member
The head of the Judicial Inspection Authority	Member
The General Coordinator	Member

(b) The Standing Subcommittee

98. The Standing Subcommittee, which is chaired by the General Coordinator of the Higher National Committee and includes among its member two permanent representatives of the above-mentioned departments, is an executive committee the composition of which is determined by the Chairman of the Higher National Committee, which has a Technical Secretariat to organize and monitor its functions and activities.

(c) The Advisory Body

99. The 30-member Advisory Body consists of social and academic personalities concerned with, or working in, fields relating to human rights who are appointed by decision of the Prime Minister on the basis of a proposal from the Higher National Human Rights Committee. The task of the Advisory Body is to submit its views and advice on human rights matters referred to it and to help to formulate policies, plans and programmes for the protection and promotion of human rights.

(d) Working methods of the Higher National Committee

100. Yemen is among the first States to ratify international human rights instruments. Accordingly, the Higher National Human Rights Committee is responsible for monitoring the fulfilment of Yemen's obligations arising from the international instruments that it has signed. The Committee also closely monitors the human rights situation in Yemen in order to prevent any violation of those rights. It conducts its work through regular or extraordinary meetings organized by the Standing Subcommittee which, in turn, constitutes a permanent workshop that addresses every issue referred to it in any field relating to human rights.

(e) Measures for the protection of human rights

101. Freedom to establish non-governmental organizations, trade unions and civil institutions; freedom of the press; and the establishment of a human rights fund into which voluntary contributions can be paid to help to solve human rights-related problems.

(f) Non-governmental human rights organizations

102. Following the establishment of the Republic of Yemen in 1990, which ushered in an era of democratization and active civil institutions, the number of non-governmental organizations and institutions engaged in activities relating to the protection and promotion of human rights in general or focusing on a particular field, such as political, civil, economic or cultural rights or protection of the rights of a specific section of society, such as women, children or the disabled, increased considerably and currently amounts to about 2,000.